



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

HB5309

Introduced 01/25/06, by Rep. Kathleen A. Ryg

#### SYNOPSIS AS INTRODUCED:

765 ILCS 1005/1c

from Ch. 76, par. 1c

Amends the Joint Tenancy Act. Provides that if the beneficial interest in a revocable trust is to be held as tenants by the entirety, the estate created shall be deemed to be in tenancy by the entirety.

LRB094 15964 AJO 51194 b

1 AN ACT concerning property.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Joint Tenancy Act is amended by changing  
5 Section 1c as follows:

6 (765 ILCS 1005/1c) (from Ch. 76, par. 1c)

7 Sec. 1c. Whenever a devise, conveyance, assignment, or  
8 other transfer of property, including a beneficial interest in  
9 a land trust or a beneficial interest in a revocable trust,  
10 maintained or intended for maintenance as a homestead by both  
11 husband and wife together during coverture shall be made and  
12 the instrument of devise, conveyance, assignment, or transfer  
13 expressly declares that the devise or conveyance is made to  
14 tenants by the entirety, or if the beneficial interest in a  
15 land trust is to be held as tenants by the entirety, or if the  
16 beneficial interest in a revocable trust is to be held as  
17 tenants by the entirety, or if husband holds the beneficial  
18 interest in a revocable trust and wife also holds the  
19 beneficial interest in a revocable trust and if the beneficial  
20 interest in each revocable trust is to be held as tenants by  
21 the entirety, the estate created shall be deemed to be in  
22 tenancy by the entirety. Subject to the provisions of paragraph  
23 (d) of Section 2 and unless otherwise assented to in writing by  
24 both tenants by the entirety, the estate in tenancy by the  
25 entirety so created shall exist only if, and as long as, the  
26 tenants are and remain married to each other, and upon the  
27 death of either such tenant the survivor shall retain the  
28 entire estate; provided that, upon a judgment of dissolution of  
29 marriage or of declaration of invalidity of marriage, the  
30 estate shall, by operation of law, become a tenancy in common  
31 until and unless the court directs otherwise; provided further  
32 that the estate shall, by operation of law, become a joint

1 tenancy upon the creation and maintenance by both spouses  
2 together of other property as a homestead. A devise,  
3 conveyance, assignment, or other transfer to 2 grantees who are  
4 not in fact husband and wife that purports to create an estate  
5 by the entirety shall be construed as having created an estate  
6 in joint tenancy. An estate in tenancy by the entirety may be  
7 created notwithstanding the fact that a grantor is or the  
8 grantors are also named as a grantee or the grantees in a deed.  
9 No deed, contract for deed, mortgage, or lease of homestead  
10 property held in tenancy by the entirety shall be effective  
11 unless signed by both tenants. This Section shall not apply to  
12 nor operate to change the effect of any devise or conveyance.

13 This amendatory Act of 1995 is declarative of existing law.  
14 (Source: P.A. 92-136, eff. 1-1-02.)